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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
BRADLEY, MATTHEW A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/699,318	COCHRAN ET AL.	
	Examiner	Art Unit	
	Matthew Bradley	2187	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 April 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-43* is/are pending in the application.

4a) Of the above claim(s) *39-43* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This Office Action has been issued in response to amendment filed 8 January 2007 as well as response to the requirement for election/restriction filed on 24 April 2007. Applicant's arguments have been carefully and fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made. Accordingly, this action has **NOT** been made final.

Election/Restrictions

Applicant's election without traverse of claims 1-38 in the reply filed on 24 April 2007 is acknowledged.

Claim Status

Claims 1-38 remain pending and are ready for examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. **Claims 1-3, 8-10, 13, 15-18 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lubbers et al (U.S. 2003/0188114), hereinafter referred to as Lubbers, and in view of Begis et al. (US 6,678,812).

2. **With respect to claim 1**, Lubbers teach, initiating a copy operation from a first storage cell to a second storage cell, wherein the copy operation initially utilizes a first write block size (Paragraph 0013-0014).

Lubbers does not explicitly teach the changing of a write block size.

Begis et al. disclose a method, comprising:

- changing the write block size to utilize a second write block size, different from the first write block size (column 4, lines 53-54);
- measuring a performance parameter at the second write block size (column 4, lines 4-15, lines 38-43, lines 53-54; the throughput is measured for the first transfer block size, and the process is repeated for the second and subsequent transfer block sizes); and
- maintaining the second block size if the performance parameter exceeds a threshold (column 4, lines 57-59; the transfer block size with the highest throughput is selected, so if the last transfer block size has a throughput that exceeds the throughput of the next fastest transfer block size, it is maintained).

Lubbers and Begis et al are analogous art because they are from the same field of endeavor namely, data storage systems.

At the time of invention, it would have been obvious to one of ordinary skill in the art, having both the teachings of Lubbers and Begis et al before him/her to combine the functionality of finding an optimal block transfer size of Begis et al with Lubbers for the benefit of optimizing hard drive performance.

The suggestion for doing so would have been that, the system of Begis et al increases the performance of a hard drive by employing an optimization function that determines the optimal Transfer Block size by comparing the average throughput (Kbytes/sec) for a number of Transfer Block sizes (Column1 line 66 to Column 2 line 21 of Begis et al).

Therefore, it would have been obvious to combine Lubbers with Begis et al for the optimization function of Begis et al to obtain the invention as specified in claims **1-3, 8-10, 13, 15-18, and 27**.

3. **With respect to claim 2**, the combination of Lubbers and Begis et al. disclose the method of claim 1 (see above paragraph 2), wherein initiating a copy operation from a first storage cell to a second storage cell comprises setting the first write block size to a lower bound of write block sizes (column 2, lines 4-7, lines 11-12; a number of transfer block sizes are examined which inherently include a smallest size, i.e. a lower bound of Begis et al).

4. **With respect to claim 3**, the combination of Lubbers and Begis et al. disclose the method of claim 2 (see above paragraph 3), further comprising measuring a performance parameter at the first write block size (column 4, lines 4-15, lines 38-43 of Begis et al).

5. **With respect to claim 8**, the combination of Lubbers and Begis et al. disclose a method, comprising

- initiating a data transfer operation between a first storage cell and a second storage cell, wherein the data transfer operation initially utilizes a write block size referred to as a native write block size (Paragraph 0013-0014 of Lubbers);
- determining a data transfer performance parameter associated with the native write block size (column 4, lines 4-15, lines 38-43);
- varying the write block size through a plurality of write block sizes different than the native write block size (column 2, lines 4-7, lines 11-12 of Begis et al);
- determining a data transfer performance parameter associated with at least one of the plurality of write block sizes different than the native write block size (column 4, lines 4-15, lines 38-43, lines 53-54 of Begis et al; the throughput is measured for the first transfer block size, and the process is repeated for the second and subsequent transfer block sizes); and
- changing the native write block size if the data transfer performance parameter at one of the plurality of write block sizes different than the native write block size satisfies a performance threshold (column 4, lines 53-65 of Begis et al).

6. **With respect to claim 9**, the combination of Lubbers and Begis et al. disclose the method of claim 8 (see above paragraph 5), further comprising establishing one or more parameters pursuant to which the data transfer operation is initiated (column 3, line 51 -- column 4, line 3; parameters are set before optimization begins of Begis et al).

7. **With respect to claim 10**, the combination of Lubbers and Begis et al. disclose the method of claim 8 (see above paragraph 5), wherein varying the write block size

through a plurality of write block sizes different than the native write block size comprises

- setting the write block size to a first write block size (column 4, lines 30-35 of Begis et al); and
- changing the write block size in response to a triggering event (column 4, lines 51-54 of Begis et al).

8. **With respect to claim 13**, the combination of Lubbers and Begis et al. disclose the method of claim 8 (see above paragraph 5), wherein determining a data transfer performance parameter associated with the native write block size comprises measuring a data transmission throughput at the native write block size (column 4, lines 8-11, lines 38-43 of Begis et al).

9. **With respect to claim 15**, the combination of Lubbers and Begis et al. disclose the method of claim 8 (see above paragraph 5), wherein determining a performance parameter associated with at least one of the plurality of write block sizes different than the native write block size further comprises:

- recording a data transfer performance parameter at at least one write block size in a memory location (122 of Fig. 4; column 4, lines 4-6 of Begis et al); and
- associating the data transmission performance parameter with the write block size (122 of Fig. 4; column 4, lines 8-11 of Begis et al).

10. **With respect to claim 16**, the combination of Lubbers and Begis et al. disclose the method of claim 8 (see above paragraph 5), wherein changing the native write block size if the data transfer performance parameter at one of the plurality of write block

sizes different than the native write block sizes satisfies a performance threshold comprises changing the native write block size if the data transfer performance parameter at one of the plurality of write block sizes different than the native write block size is greater than the corresponding performance parameter at the native write block size (Fig. 6; column 4,

lines 53-65 of Begis et al).

11. **With respect to claim 17**, the combination of Lubbers and Begis et al. disclose the method of claim 8 (see above paragraph 5), further comprising:

- recording, in a suitable memory location, an array of performance parameters associated with write block sizes (122 of Fig. 4; column 4, lines 4-6, lines 8-11 of Begis et al);
- searching the array for the best performance parameter (240 of Fig. 5; column 4, lines 57-65 of Begis et al); and
- changing the native block size to the block size associated with the best performance parameter (240 of Fig. 5; column 4, lines 57-59 of Begis et al).

12. **With respect to claim 18**, the combination of Lubbers and Begis et al. disclose a computer program product comprising logic instructions recorded on a computer-readable medium that, when executed cause a computer to execute the method of claim 8 (column 2, lines 61-63 of Begis et al; see above paragraph 7).

With respect to claim 27, the combination of Lubbers and Begis et al. and disclose the method of claim 1 (see above paragraph 2) and wherein the copy operation

copies data from a logical unit residing on the first storage cell to a logical unit residing on the second storage cell via a switching network (Paragraph 0013-0014 of Lubbers).

13. **Claims 4-7 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lubbers and in view of Begis et al. as applied to claims 1-3, 8-10, 13 and 15-18 above, and further in view of Yen et al. (US 2004/0071166).

14. **With respect to claim 4**, the combination of Lubbers and Begis et al. disclose the method of claim 3 (see above paragraph 4). The combination of Lubbers and Begis et al. do not disclose the limitation wherein changing the write block size to utilize a second write block size, different from the first write block size, comprises incrementing the write block size.

However, Yen et al. disclose the limitation wherein changing the write block size to utilize a second write block size, different from the first write block size, comprises incrementing the write block size (Tables 2-4) [0030-0032; the packet sizes start at 64 bytes, a lower bound, and are incremented to 71 bytes].

The combination of Lubbers and Begis et al. and Yen et al. are analogous art because they are from the same field of endeavor, namely the determination of optimal packet sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the incrementing of packet sizes of Yen et al. with the varied transfer block sizes of Begis et al. in determining the optimal transfer block size. The motivation for doing so would have been because it "allows the IPG [inter-packet gap]

generator to provide an IPG that take into account varying combinations of packet sizes" [Paragraph 0033, lines 2-3 of Yen et al].

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Yen et al. with the combination of Lubbers and Begis et al. for the benefit of a method for determining the optimal transfer block size that varies the packet size by incrementing to obtain the invention as specified in claim 4.

15. **With respect to claim 5**, the combination of Lubbers and Begis et al. and Yen et al. disclose the method of claim 4 (see above paragraph 14), wherein maintaining the second block size if the performance parameter exceeds a threshold comprises comparing the performance parameter measured at the first block size with the performance parameter measured at the second block size (Fig. 6; column 4, lines 57-65 of Begis et al).

16. **With respect to claim 6**, the combination of Lubbers and Begis et al. and Yen et al. disclose the method of claim 5 (see above paragraph 15), further comprising repeatedly incrementing the write block size and comparing a performance parameter at a current write block size with a performance parameter at a previous write block size (column 4, lines 53-65 of Begis et al; if the last transfer block size examined is considered the current transfer block size, then its throughput is compared to the measured throughput of previous transfer block sizes).

17. **With respect to claim 7**, the combination of Lubbers and Begis et al. and Yen et al. disclose the method of claim 5 (see above paragraph 16), further comprising

terminating incrementing the write block size when the current write block size reaches an upper bound (column 2, lines 11-12; column 4, lines 54-57 of Begis et al).

18. **With respect to claim 11**, the combination of Lubbers and Begis et al. and Yen et al. disclose the method of claim 10 (see above paragraph). The combination of Lubbers and Begis et al. do not disclose the limitation wherein the first write block size is a lower bound of a range of write block sizes and changing the write block size comprises increasing the write block size by a defined increment.

However, Yen et al. disclose the limitation wherein the first write block size is a lower bound of a range of write block sizes and changing the write block size comprises increasing the write block size by a defined increment (Tables 2-4) [0030-0032; the packet sizes start at 64 bytes, a lower bound, and are incremented to 71 bytes].

The combination of Lubbers and Begis et al. and Yen et al. are analogous art because they are from the same field of endeavor, namely the determination of optimal packet sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the incrementing of packet sizes of Yen et al. with the varied transfer block sizes of Begis et al. in determining the optimal transfer block size. The motivation for doing so would have been because it "allows the IPG [inter-packet gap] generator to provide an IPG that take into account varying combinations of packet sizes" [Paragraph 0033, lines 2-3 of Yen et al].

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Yen et al. with the combination of Lubbers and Begis et al. for the benefit of a

method for determining the optimal transfer block size that varies the packet size by incrementing to obtain the invention as specified in claim 11.

19. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lubbers and in view of Begis et al. as applied to claims 1-3, 8-10, 13 and 15-18 above, and further in view of in view of James et al. (US 6,006,289).

20. **With respect to claim 12**, the combination of Lubbers and Begis et al. disclose the method of claim 10 (see above paragraph 7). Begis et al. do not disclose the limitation wherein the first write block size is an upper bound of a range of write block sizes and changing the write block size comprises increasing the write block size by a defined increment.

However, James et al. disclose the limitation wherein the first write block size is an upper bound of a range of write block sizes and changing the write block size comprises increasing the write block size by a defined increment (571 of Fig. 5A; column 9, lines 34-37; since the block size is only decremented, it must start from an upper bound).

The combination of Lubbers and Begis et al. and James et al. are analogous art because they are from the same field of endeavor, namely the determination of optimal packet sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the decrementing of data block sizes of James et al. with the varied transfer block sizes of Begis et al. in determining the optimal transfer block size. The motivation for doing so would have been because "the target lacks buffer capacity

to receive the data block" (column 9, lines 34-36 of James et al) and it may have buffer capacity for a data block of smaller size.

Therefore, it would have been obvious to a person of ordinary skill in the art to combine James et al. with the combination of Lubbers and Begis et al. for the benefit of a method for determining the optimal transfer block size that varies the packet size by decrementing to obtain the invention as specified in claim 12.

21. **Claims 14, 19, 21-26, and 28-38** are rejected under 35 U.S.C. 103(a) as being anticipated over Lubbers and in view of Begis et al. as applied to claims 1-3, 8-10, 13 and 15-18 above, and further in view of in view of Bournas (US 6,769,030).

22. **With respect to claim 14**, the combination of Lubbers and Begis et al. disclose the method of claim 8 (see above paragraph 5). The combination of Lubbers and Begis et al. do not disclose the limitation wherein determining a data transfer performance parameter associated with the native write block size comprises measuring a round trip transmission time at the native write block size.

However, Bournas discloses the limitation wherein determining a data transfer performance parameter associated with the native write block size comprises measuring a round trip transmission time at the native write block size (column 3, lines 65-66).

The combination of Lubbers and Begis et al. and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the round trip transmission time parameter of Bournas with the throughput parameter of Begis et al. in determining the optimal transfer block size. The motivation for doing so would have been because "an average round trip... [is] used to calculate the optimal network packet size" (column 3, line 65 -- column 4, line 1 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with the combination of Lubbers and Begis et al. for the benefit of a method for determining the optimal transfer block size that takes into account round trip transmission time as well as throughput to obtain the invention as specified in claim 14.

23. **With respect to claim 19**, the combination of Lubbers and Begis et al. and Bournas disclose a network element in a computer-based storage network, comprising:

- a processor (14 of Fig. 1; column 2, line 58 of Begis et al);
- a memory module (18 of Fig. 1; column 2, lines 58-59 of Begis et al); and
- a communication bus that provides a communication connection between the processor and the memory module (28 of Fig. 1; column 2, line 64 of Begis et al),
- wherein the memory module comprises logic instructions (column 2, lines 61-63 of Begis et al) that, when executed on the processor, cause the processor to:
    - initiate a data transfer operation between a first storage cell and a second storage cell, wherein the data transfer operation initially utilizes a write block size referred to as a native write block size (Paragraphs 0013-0014 of Lubbers);

- determine a data transfer performance parameter associated with the native write block size (column 4, lines 4-15, lines 38-43 of Begis et al);
- periodically vary the write block size through a plurality of write block sizes different than the native write block size (column 2, lines 4-7, lines 11-12 of Begis et al);
- determine a data transfer performance parameter associated with at least one of the plurality of write block sizes different than the native write block size (column 4, lines 4-15, lines 38-43, lines 53-54 of Begis et al; the throughput is measured for the first transfer block size, and the process is repeated for the second and subsequent transfer block sizes); and
- change the native write block size if the data transfer performance parameter at one of the plurality of write block sizes different than the native write block size satisfies a performance threshold (column 4, lines 53-65 of Begis et al).

The combination of Lubbers and Begis et al. do not explicitly disclose the limitations wherein the network comprises:

- a network interface;
- a communication bus that provides a communication connection between the network interface, the processor, and the memory module.

However, Bournas discloses the limitations wherein the network comprises:

- a network interface (210 of Fig. 2; column 3, lines 31-34);

- a communication bus that provides a communication connection between the network interface, the processor, and the memory module (206 of Fig. 2; column 3, lines 31-34).

The combination of Lubbers and Begis et al. and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the bus with a network adapter of Bournas with the bus of Begis et al.

The motivation for doing so would have been because "In high-speed network 116, the transmission of data is broken into cells of equal size. The present invention recognizes that in this situation, the IP packet size is not limited to a maximum size. This flexibility in choosing the network packet size allows for much higher file transfer rates to be achieved when an optimal packet size is selected" (column 2, lines 53-58 of Bournas). Data packets could be transferred not only from a hard drive to the processor as in Begis et al. and Lubbers, but between different computers on the network through the network adapter.

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with The combination of Lubbers and Begis et al. for the benefit of a packet-optimizing device that allows packets to be transferred between computers on the network to obtain the invention as specified in claim 19.

24. **With respect to claim 21**, Bournas and the combination of Lubbers and Begis et al. disclose the network element of claim 19 (see above paragraph 23), wherein the logic instructions that cause the network element to determine a data transfer performance parameter associated with the native write block size further cause the network element to measure a data transmission throughput at the native write block size (column 4, lines 8-11, lines 38-43 of Begis et al).

25. **With respect to claim 22**, Bournas and the combination of Lubbers and Begis et al. disclose the network element of claim 19 (see above paragraph 23). Begis et al. disclose the limitations wherein the logic instructions that cause the network element to determine a data transfer performance parameter associated with the native write block size further cause the network element to measure a round trip transmission time at the native write block size (see above paragraph 22).

26. **With respect to claim 23**, Bournas and the combination of Lubbers and Begis et al. disclose the network element of claim 19 (see above paragraph 23). Begis et al. disclose the limitations wherein the logic instructions that cause the network element to determine a data transfer performance parameter associated with at least one of the plurality of write block sizes different than the native write block size further cause the network element to:

- record a data transfer performance parameter at a plurality of write block sizes in a memory location (122 of Fig. 4; column 4, lines 4-6 of Begis et al); and
- associate the data transmission performance parameter with the write block size (122 of Fig. 4; column 4, lines 8-11 of Begis et al).

27. **With respect to claim 24**, Bournas and the combination of Lubbers and Begis et al. disclose the network element of claim 19 (see above paragraph 23). Begis et al. disclose the limitations wherein the logic instructions that cause the network element to change the native block size if the data transfer performance parameter at one of the plurality of write block sizes different than the native write block sizes satisfies a performance threshold further cause the network element to change the native write block size if the data transfer performance parameter at one of the plurality of write block sizes different than the native write block size is greater than the corresponding performance parameter at the native write block size (Fig. 6; column 4, lines 53-65 of Begis et al).

28. **With respect to claim 25**, Bournas and the combination of Lubbers and Begis et al. disclose the network element of claim 19 (see above paragraph 23). Begis et al. disclose the limitations wherein the logic instructions that cause the network element to:

- record, in a suitable memory location, an array of performance parameters associated with write block sizes (122 of Fig. 4; column 4, lines 4-6, lines 8-11 of Begis et al);
- search the array for the best performance parameter (240 of Fig. 5; column 4, lines 57-65 of Begis et al); and
- change the native block size to the block size associated with the best performance parameter (240 of Fig. 5; column 4, lines 57-59 of Begis et al).

29. **With respect to claim 26**, the combination of Lubbers and Begis et al. and Bournas disclose a network element in a computer-based storage network, comprising:

- a processor (14 of Fig. 1; column 2, line 58 of Begis et al);
- a memory module (18 of Fig. 1; column 2, lines 58-59 of Begis et al); and
- a communication bus that provides a communication connection between the processor and the memory module (28 of Fig. 1; column 2, line 64 of Begis et al),
- means for initiating a data transfer operation between a first storage cell and a second storage cell, wherein the data transfer operation initially utilizes a write block size referred to as a native write block size (Paragraph 0013-0014 of Lubbers);
- means for determining a data transfer performance parameter associated with the native write block size (column 4, lines 4-15, lines 38-43 of Begis et al);
- means for periodically varying the write block size through a plurality of write block sizes different than the native write block size (column 2, lines 4-7, lines 11-12 of Begis et al);
- means for determining a data transfer performance parameter associated with at least one of the plurality of write block sizes different than the native write block size (column 4, lines 4-15, lines 38-43, lines 53-54 of Begis et al; the throughput is measured for the first transfer block size, and the process is repeated for the second and subsequent transfer block sizes); and
- means for changing the native write block size if the data transfer performance parameter at one of the plurality of write block sizes different than the native write block size satisfies a performance threshold (column 4, lines 53-65 of Begis et al).

- a network interface (210 of Fig. 2; column 3, lines 31-34 of Bournas);
- a communication bus that provides a communication connection between the network interface, the processor, and the memory module (206 of Fig. 2; column 3, lines 31-34 of Bournas).

30. **With respect to claim 28**, the combination of Lubbers and Begis et al. disclose the method of claim 27. Begis et al. disclose the limitations further comprising evaluating a performance parameter at one or more different write block sizes (column 4, lines 30-43, lines 53-54). Begis et al. do not disclose the limitations further comprising:

- monitoring one or more transmission conditions on the switching network; and
- evaluating a performance parameter at one or more different write block sizes when one or more transmission conditions change by a threshold amount.

However, Bournas discloses the limitations further comprising:

- monitoring one or more transmission conditions on the switching network (column 7, lines 1-7, where the condition is whether "a data transfer is to occur between the target and the source"); and
- evaluating a performance parameter at one or more different write block sizes (column 7, lines 11-15, lines 37-43) when one or more transmission conditions change by a threshold amount (column 7, lines 5-7; the threshold amount is the jump from zero data transfers pending to one data transfer pending).

Begis et al. and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the triggering of packet size analysis by a transmission condition exceeding a threshold of Bournas with the method of varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with the combination of Lubbers and Begis et al for the benefit of a packet-optimizing method that is triggered by a transmission condition exceeding a threshold to obtain the invention as specified in claim 28.

31. **With respect to claim 29**, he combination of Lubbers and Begis et al and Bournas disclose the method of claim 27. Begis et al. disclose the limitations further comprising evaluating a performance parameter at one or more different write block sizes (column 4, lines 30-43, lines 53-54). Begis et al. do not disclose the limitations further comprising evaluating a performance parameter at one or more different write block sizes after a predetermined amount of time has elapsed.

However, Bournas discloses the limitations further comprising evaluating a performance parameter at one or more different write block sizes (column 7, lines 11-15, lines 37-43) after a predetermined amount of time has elapsed (column 7, lines 7-10).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the triggering of packet size analysis when a timer expires of Bournas with the method of varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with Begis et al. for the benefit of a packet-optimizing method that is triggered when a timer expires to obtain the invention as specified in claim 29.

32. **With respect to claim 30**, the combination of Lubbers and Begis et al disclose the method of claim 8 (see above paragraph 4). Begis et al. do not disclose the limitation wherein the data transfer operation copies data from a logical unit residing on the first storage cell to a logical unit residing on the second storage cell via a switching network.

However, Bournas discloses the limitation wherein the data transfer operation copies data from a logical unit residing on the first storage cell to a logical unit residing on the second storage cell via a switching network (column 2, lines 27-34, lines 53-54).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the transfer of data across a network of Bournas with the method

of varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with the combination of Lubbers and Begis et al for the benefit of a packet-optimizing device that allows packets to be transferred between computers on the network to obtain the invention as specified in claim 30.

33. **With respect to claim 31**, the combination of Lubbers and Begis et al and Bournas disclose the method of claim 30 (see above paragraph 32). Begis et al. disclose the limitations further comprising evaluating a performance parameter at one or more different write block sizes (column 4, lines 30-43, lines 53-54). Begis et al. do not disclose the limitations further comprising:

- monitoring one or more transmission conditions on the switching network; and
- evaluating a performance parameter at one or more different write block sizes when one or more transmission conditions change by a threshold amount.

However, Bournas discloses the limitations further comprising:

- monitoring one or more transmission conditions on the switching network (column 7, lines 1-7, where the condition is whether "a data transfer is to occur between the target and the source"); and
- evaluating a performance parameter at one or more different write block sizes (column 7, lines 11-15, lines 37-43) when one or more transmission conditions change by a threshold amount (column 7, lines 5-7; the threshold amount is the jump from zero data transfers pending to one data transfer pending).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the triggering of packet size analysis by a transmission condition exceeding a threshold of Bournas with the method of varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with he combination of Lubbers and Begis et al for the benefit of a packet-optimizing method that is triggered by a transmission condition exceeding a threshold to obtain the invention as specified in claim 31.

34. **With respect to claim 32**, the combination of Lubbers and Begis et al and Bournas disclose the method of claim 30 (see above paragraph 34). Begis et al. disclose the limitations further comprising evaluating a performance parameter at one or more different write block sizes (column 4, lines 30-43, lines 53-54). Begis et al. do not disclose the limitations further comprising evaluating a performance parameter at one or more different write block sizes after a predetermined amount of time has elapsed.

However, Bournas discloses the limitations further comprising evaluating a performance parameter at one or more different write block sizes (column 7, lines 11-15, lines 37-43) after a predetermined amount of time has elapsed (column 7, lines 7-10).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the triggering of packet size analysis when a timer expires of Bournas with the method of varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with the combination of Lubbers and Begis et al for the benefit of a packet-optimizing method that is triggered when a timer expires to obtain the invention as specified in claim 32.

35. **With respect to claim 33**, the combination of Lubbers and Begis et al and Bournas disclose the network element of claim 19 (see above paragraph 23). Begis et al. do not disclose the limitation wherein the memory module comprises logic instructions that, when executed on the processor, cause the processor to copy data from a logical unit residing on the first storage cell to a logical unit residing on the second storage cell via a switching network.

However, Bournas discloses the limitation wherein the memory module comprises logic instructions that, when executed on the processor, cause the processor to copy data from a logical unit residing on the first storage cell to a logical unit residing on the second storage cell via a switching network (column 2, lines 27-34, lines 53-54).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the transfer of data across a network of Bournas with the network element varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with Begis et al. for the benefit of a packet-optimizing device that allows packets to be transferred between computers on the network to obtain the invention as specified in claim 33.

36. **With respect to claim 34**, the combination of Lubbers and Begis et al and Bournas disclose the network element of claim 33 (see above paragraph 35). Begis et al. disclose the limitation wherein the memory module comprises logic instructions that, when executed on the processor, cause the processor to evaluate a performance parameter at one or more different write block sizes (column 4, lines 30-43, lines 53-54). Begis et al. do not disclose the limitations wherein the memory module comprises logic instructions that, when executed on the processor, cause the processor to:

- monitor one or more transmission conditions on the switching network; and
- evaluate a performance parameter at one or more different write block sizes when one or more transmission conditions change by a threshold amount.

However, Bournas discloses limitations wherein the memory module comprises logic instructions that, when executed on the processor, cause the processor to:

- monitor one or more transmission conditions on the switching network (column 7, lines 1-7, where the condition is whether "a data transfer is to occur between the target and the source"); and
- evaluate a performance parameter at one or more different write block sizes (column 7, lines 11-15, lines 37-43) when one or more transmission conditions change by a threshold amount (column 7, lines 5-7; the threshold amount is the jump from zero data transfers pending to one data transfer pending).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the triggering of packet size analysis by a transmission condition exceeding a threshold of Bournas with the network element varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with he combination of Lubbers and Begis et al for the benefit of a packet-optimizing method that is triggered by a transmission condition exceeding a threshold to obtain the invention as specified in claim 34.

37. **With respect to claim 35**, the combination of Lubbers and Begis et al and Bournas disclose the network element of claim 19 (see above paragraph 23). Begis et al. disclose the limitation wherein the memory module comprises logic instructions that, when executed on the processor, cause the processor to evaluate a performance parameter at one or more different write block sizes (column 4, lines 30-43, lines 53-54). Begis et al. do not disclose the limitation wherein the memory module comprises logic instructions that, when executed on the processor, cause the processor to evaluate a performance parameter at one or more different write block sizes after a predetermined amount of time has elapsed.

However, Bournas discloses the limitation wherein the memory module comprises logic instructions that, when executed on the processor, cause the processor to evaluate a performance parameter at one or more different write block sizes (column 7, lines 11-15, lines 37-43) after a predetermined amount of time has elapsed (column 7, lines 7-10).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the triggering of packet size analysis when a timer expires of Bournas with the network element varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with he combination of Lubbers and Begis et al for the benefit of a packet-optimizing method that is triggered when a timer expires to obtain the invention as specified in claim 35.

38. **With respect to claim 36**, the combination of Lubbers and Begis et al and Bournas disclose the network element of claim 26 (see above paragraph 29). Begis et al. do not disclose the limitation further comprising means for copying data from a logical unit residing on the first storage cell to a logical unit residing on the second storage cell via a switching network.

However, Bournas discloses the limitation further comprising means for copying data from a logical unit residing on the first storage cell to a logical unit residing on the second storage cell via a switching network (column 2, lines 27-34, lines 53-54).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the transfer of data across a network of Bournas with the network element varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with the combination of Lubbers and Begis et al for the benefit of a

packet-optimizing device that allows packets to be transferred between computers on the network to obtain the invention as specified in claim 36.

39. **With respect to claim 37**, the combination of Lubbers and Begis et al and Bournas disclose the network element of claim 36. Begis et al. disclose the limitation further comprising evaluating a performance parameter at one or more different write block sizes (column 4, lines 30-43, lines 53-54). Begis et al. do not disclose the limitations further comprising:

- means for monitoring one or more transmission conditions on the switching network; and
- means for evaluating a performance parameter at one or more different write block sizes when one or more transmission conditions change by a threshold amount.

However, Bournas discloses limitations further comprising:

- means for monitoring one or more transmission conditions on the switching network (column 7, lines 1-7, where the condition is whether "a data transfer is to occur between the target and the source"); and
- means for evaluating a performance parameter at one or more different write block sizes (column 7, lines 11-15, lines 37-43) when one or more transmission conditions change by a threshold amount (column 7, lines 5-7; the threshold amount is the jump from zero data transfers pending to one data transfer pending).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the triggering of packet size analysis by a transmission condition exceeding a threshold of Bournas with the method of varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with the combination of Lubbers and Begis et al for the benefit of a packet-optimizing method that is triggered by a transmission condition exceeding a threshold to obtain the invention as specified in claim 37.

40. **With respect to claim 38**, the combination of Lubbers and Begis et al and Bournas disclose the network element of claim 19 (see above paragraph 23). Begis et al. disclose the limitation further comprising means for evaluating a performance parameter at one or more different write block sizes (column 4, lines 30-43, lines 53-54). Begis et al. do not disclose the limitations further comprising means for evaluating a performance parameter at one or more different write block sizes after a predetermined amount of time has elapsed.

However, Bournas discloses the limitation further comprising means for evaluating a performance parameter at one or more different write block sizes

(column 7, lines 11-15, lines 37-43) after a predetermined amount of time has elapsed (column 7, lines 7-10).

The combination of Lubbers and Begis et al and Bournas are analogous art because they are from the same field of endeavor, namely the determination of optimal transfer block sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the triggering of packet size analysis when a timer expires of Bournas with the method of varying write block size of Begis et al. The motivation for doing so would have been "to maximize network productivity" (column 1, line 30 of Bournas).

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Bournas with he combination of Lubbers and Begis et al for the benefit of a packet-optimizing method that is triggered when a timer expires to obtain the invention as specified in claim 38.

41. **Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lubbers and in view of abd further in view of Bournas (US 6,769,030) as applied to claims 14, 19 and 26 above, and still further in view of Yen et al. (US 2004/0071166).

42. **With respect to claim 20**, the combination of Lubbers and Begis et al in view of Bournas discloses the network element of claim 19 (see above paragraph 23). Begis et al. disclose the limitations wherein the logic instructions that cause the network element to periodically vary the write block size through a plurality of write block sizes different than the native write block size further cause the network element to set the write block

to a boundary write block size (column 2, lines 4-7, lines 11-12; a number of transfer block sizes are examined, which includes inherently a first size). Begis et al. do not disclose the limitation wherein the logic instructions cause the network element to periodically increment the write block size.

However, Yen et al. disclose the limitation wherein the logic instructions cause the network element to periodically increment the write block size (Tables 2-4) [0030-0032; the packet sizes start at 64 bytes, a lower bound, and are incremented to 71 bytes].

The combination of Lubbers and Begis et al and Bournas and Yen et al. are analogous art because they are from the same field of endeavor, namely the determination of optimal packet sizes.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the incrementing of packet sizes of Yen et al. with the varied transfer block sizes of Begis et al. in determining the optimal transfer block size. The motivation for doing so would have been because it "allows the IPG [inter-packet gap] generator to provide an IPG that take into account varying combinations of packet sizes" [0033, lines 2-3 of Yen].

Therefore, it would have been obvious to a person of ordinary skill in the art to combine Yen et al. with he combination of Lubbers and Begis et al and Bournas for the benefit of a method for determining the optimal transfer block size that varies the packet size by incrementing to obtain the invention as specified in claim 20.

Response to Arguments

Applicant's arguments, filed 8 January 2007, have been fully considered and are persuasive. However, upon further consideration, a new ground(s) of rejection is made. Accordingly, this action has NOT been made final.

Any argument not specifically addressed is considered moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Bradley whose telephone number is (571) 272-8575. The examiner can normally be reached on 6:30-3:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald A. Sparks can be reached on (571) 272-4201. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BRP/mb MB

Brian R. Peugh
Primary Examiner
7/9/07